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12 UNITED STATES DISTRICT COURT

13 NORTHERN DISTRICT OF CALIFORNIA

14 SAN FRANCISCO DIVISION

15
16
17 GOOGLE LLC,

18 Plaintiff,

19 vs.

20 SONOS, INC.,

21 Defendant.

Case No. 3:20-cv-06754-WHA

Related to Case No. 3:21-cv-07559-WHA

**GOOGLE LLC'S RESPONSE TO THE
COURT'S REQUEST FOR
INFORMATION (DKT. 549)**

The Hon. William H. Alsup

Date: March 30, 2023

Time: 8:00 a.m.

Location: Courtroom 12, 19th Floor

1 Google LLC (“Google”) files this brief in response to the Court’s Request for Information
2 (Dkt. 549). A ruling that the asserted claims of U.S. Patent No. 10,779,033 (“’033 patent”) are
3 invalid would not moot Google’s breach of contract and conversion claims because such claims do
4 not hinge on the validity of the ’033 patent. An invalidity finding would not change the fact that
5 Sonos has improperly claimed a right in development work arising from the parties’
6 collaboration. *See generally* Dkt. 83-2 (Google’s Reply in Support of its Motion for Leave to File
7 its Second Amended Complaint) at 4.

8 With respect to breach of contract, Sonos violated the Content Integration Agreement (Dkt.
9 479-4, “CIA”) by **claiming Google’s cloud queue API for itself** in at least the following ways. First,
10 Sonos breached the CIA by claiming Google’s development work during prosecution of the ’033
11 patent, including in the November 1, 2019 amendment that introduced limitations related to a
12 “remote playback queue,” and then accusing Google of infringement of the patent based on Google’s
13 use of the result of that development work—the cloud queue API. Dkt. 515-37 (Google’s
14 Opposition to Sonos’s Motion for Summary Judgment Regarding Google’s Contract-Related
15 Claims) at 10-11, 12-14. Second, Sonos breached the CIA by **using Google’s cloud queue API to**
16 **engage in integrations with Google’s competitors**, which is separate from the ’033 patent or its
17 validity. *Id.* at 11-12. Third, Sonos breached the CIA by filing other patents purporting to cover
18 Google’s development work on the cloud queue API after the parties’ collaboration. *See id.* at 9-
19 10; *see also* Dkt. 515-32 (Opening Expert Report of Samrat Bhattacharjee Regarding Invalidity of
20 U.S. Patent Nos. 10,779,033 and 9,967,615 and Other Issues) ¶¶ 811-12. None of these breaches
21 would be mooted by a finding of invalidity of the ’033 patent.

22 With respect to conversion, Google’s claim would similarly not be mooted by a ruling that
23 the ’033 patent is invalid. Specifically, Google claims that Sonos wrongfully exercised dominion
24 over the cloud queue technology by both (1) filing patents that purport to cover the idea, including
25 patents other than the ’033 patent, and (2) **claiming ownership over the cloud queue API with other**
26 **music providers**. Opposition at 25. Neither theory is solely contingent upon the validity of the ’033
27 patent.
28

1 Although Google's affirmative claims would not be moot, if the '033 patent is invalidated
2 and the Court is of the view that the claims should be dropped in order to streamline the issues for
3 summary judgment and trial, Google will withdraw those claims without prejudice.

4 DATED: March 29, 2023

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CERTIFICATE OF SERVICE

Pursuant to the Federal Rules of Civil Procedure and Local Rule 5-1, I hereby certify that, on March 29, 2023, all counsel of record who have appeared in this case are being served with a copy of the foregoing via the Court's CM/ECF system and email.

Charles K. Verhoeven
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